IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4860 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE AKIL KURESHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANGROL BAITULMAL ISLAMI GIRLSHIGH SCHOOL THRO' POA & EXCUT. - Petitioner(s)

Versus

GUJARAT SECONDARY EDUCATION 3RD SPECIAL LAND ACQUISITION & 1 - Respondent(s)

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Appearance :

MR HD VASAVADA for Petitioner(s) : 1,
MR AD OZA for Respondent(s) : 1,
MR MR MENDGEY for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE AKIL KURESHI

Date : 24/11/2006

ORAL JUDGMENT

1. The petitioner-trust is challenging an order

dated 26th July, 1999 passed by the Gujarat Secondary Education Board as upheld by an order dated 6th November, 1999 passed by the State Government.

2. Issues pertain to permission to start secondary section in the existing school run by the petitioner-trust with grant.

3. In response to the advertisement dated 19th March, 1999 issued by the Gujarat Secondary Education Board, the petitioner-trust applied for permission to start secondary school with facility of grant. It may be noted that the petitioner-trust already runs a primary level school and also receives grant for the same from the Government.

4. The respondents however, were of the opinion that there is already another school in the near vicinity which receives grant. Permitting another school to operate in the close vicinity would therefore, lead to unhealthy competition. In essence, therefore, request of the petitioner to grant permission to start secondary school with facility of grant was turned down.

5. Learned advocate Shri Vasavada for the petitioner stated that the petitioner-trust is not in a position to start a Self financed school from its own resources. He submitted that

the proposed school is Girls school and the area is dominated by members belonging to economically weaker section of the society. He therefore, submitted that the decision of the respondents requires reconsideration, particularly, when in case of other institutions, the authorities have granted permission to start the school with facility of grant.

6. Whether to afford the facility of grant in aid to a new school would largely depend on the budgetary allocation and the prevailing policy of the Government. It would therefore, be not possible to give directions to the respondents to grant permission to the petitioner to start a secondary school, that too, with the facility of grant without examining all aspects of the matter in detail. Additionally, I also find that during the pendency of the petition, further developments would have taken place. Number of students now available would naturally have gone up with increase in population.

7. Considering these aspects of the matter, it would be appropriate if the authorities reconsider the entire issue taking into account further developments, current situation and presently prevailing Government policy. For the above purpose, if the petitioner makes a fresh application/representation to the Secondary

Board within a period of four weeks from today, same will be decided expeditiously and preferably within a period of three months of its receipt, unmindful of the earlier adverse orders passed against the petitioner. In the application, it will be open for the petitioner, if so desired, to indicate that as an alternative the petitioner is willing to start the school even without the facility of grant. While doing so, the authorities will examine additional material that the petitioner may place on record and consider the request of the petitioner on the basis of prevailing policy of the Government.

8. With these directions, the petition is disposed of. Rule is made absolute to the above extent with no order as to costs.

Direct service is permitted.

(Akil Kureshi, J.)

(raghu)